

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Peter George Armando Delucchi,

Plaintiff,

v.

Piedmont Medical Center, Denton V.
Hernandez, Oculus Dexter, Oculus Uterque,

Defendants.

C/A: 0:22-1432-SAL

ORDER

This matter is before the court for review of the May 19, 2022 Report and Recommendation (the “Report”) of United States Magistrate Judge Shiva V. Hodges, made in accordance with 28 U.S.C. § 636(b)(1)(b) and Local Civil Rule 73.02(B)(2) (D.S.C.). [ECF No. 11.] In the Report, the Magistrate Judge recommends summarily dismissing this action without prejudice because the court lacks jurisdiction over the case. Attached to the Report was a notice advising Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. *Id.* at 7. Plaintiff has not filed objections, and the time for doing so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The court is charged with making a *de novo* determination of only those portions of the Report that have been specifically objected to, and the court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). In the absence of objections, the court is not required to provide an explanation for adopting the Report and must “only satisfy itself that there is no clear error on the face of the record in order to

accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the Report, the applicable law, and the record of this case in accordance with the above standard, the court finds no clear error, adopts the Report, ECF No. 11, and incorporates the Report by reference herein.¹ It is therefore the judgment of this court that Plaintiff’s amended complaint and this action are **DISMISSED** without prejudice.

IT IS SO ORDERED.

June 30, 2022
Columbia, South Carolina

/s/Sherri A. Lydon
Sherri A. Lydon
United States District Judge

¹ The Report lists only Piedmont Medical Center as a Defendant, consistent with Plaintiff’s amended complaint, which only provided information as to Piedmont Medical Center in the “Parties to the Complaint” section. *See* Am. Compl. at 2. However, to the extent Plaintiff also intended his amended complaint to be against Denton V. Hernandez, Oculus Dexter, and Oculus Uterque—individuals listed on the first page of the amended complaint—the court also dismisses his amended complaint, without prejudice, as to these Defendants. As explained in the Report, Plaintiff has not shown that complete diversity exists as to the three individuals, and he may file claims against them related to the alleged attack in state court. *See* [ECF No. 11 at 6.]